

**INFORMATION SHEET**  
**DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS**  
**RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK**  
**COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

**DISTRICT OFFICE:** Omaha  
**FILE NUMBER:** 200560060

**REGULATORY PROJECT MANAGER:** Erhardt **Date:** 2/4/2005

**PROJECT REVIEW/DETERMINATION COMPLETED:** **In the office** Y (Y/N) **Date:** 2/4/2005  
**At the project site**    (Y/N) **Date:**           

**PROJECT LOCATION INFORMATION:**  
**State:** North Dakota  
**County:** Oliver  
**Center coordinates of site by latitude & longitudinal coordinates:**  
**Site #3: Lat 47-11-18.9209 Long 101-45-08.8800**  
**Site #4: Lat 47-11-04.0929 Long 101-44-37.4353**  
**Approximate size of site/property (including uplands & in acres):** 640 acres  
**Name of waterway or watershed:** Knife

**SITE CONDITIONS:**

Type of aquatic resource <sup>1</sup>	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands	X	X							
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									
_____									

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup> :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?		X			

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:** Preliminary    Or Approved X.

**OPTIONAL ADDITIONAL INFORMATION SUPPORTING NJD (e.g., discussion may include information reviewed to assess potential navigation or interstate commerce connections - 1 to 3 paragraphs):** A review of maps and other available information, including, but not limited to, USGS Topo Quads, FWS NWIs, NRCS Soil Survey, FR with locations of designated critical habitat for the Piping Plover identified and aerial photograph provided by the application was done in conjunction with this jurisdictional determination. Approximately 640 acres of property is included in this JD. Located on the parcel are two (2) isolated, intrastate, non-navigable wetland basins. Wetlands are approximately 0.5 acre and 2.8 acres in size. Both wetlands are proposed to be mined through in the future, then reestablished in accordance with requirements of the ND Public Service Commission permits. No tie to interstate commerce can be made other than through migratory birds. The basins are not jurisdictional based on the SWANCC ruling.